

REMARKS

The Office Action mailed November 24 ,2008, has been carefully considered together with each of the references cited therein. The remarks presented herein are believed to be fully responsive to the Office Action. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

CLAIM STATUS

Claims 1 through 3 and 9-14 are pending in this Application.

Claim Rejections Under 35 USC § 102 and 35 USC § 103

Claims 1-3 and 9-14 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Machtold et al. (US 5,061,585). Claims 1-3, 9, 13 and 14 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Schafer et al. (US 3,652,602). Claims 1-3 and 9-14 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Metz et al. (US 6,168,895). These rejections are respectfully traversed.

The Office will kindly recall that the rejections levied in the present Office Action are identical to the rejections made in the Office Action mailed March 7, 2008 and the present Office Action. Applicants hereby incorporate all of their arguments made in Amendment in response to the non-final Office Action mailed March 7, 2008 as if reproduced herein.

In the present Office Action, on page 6, the Office responded to Applicants' arguments stating:

Applicants arguments filed regarding Machtold, Schafer and Metz have been fully considered but they are not persuasive. In applicants declaration dated October 31, the applicant provided unexpected results for the dyes of example 9 of Schafer et al. which are not the instantly claimed dyes. These dyes comprise fluoro groups and not

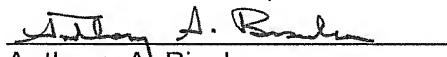
methyl substituents as the dyes instantly claimed. Furthermore, Schafer et al. clearly teach the aniline is distilled off vacuo (column 3, lines 70-75). Also applicant alleges that Machtold et al. teach the dyes of their invention are prepared as described in German Patent 1,919,724 and Schafer US 3,652,602 is the equivalent of the German Patent. The Schafer document is not the US equivalent of GB 1,919,724. The dyes cited in the German patent differ from those instantly claimed in that they have a double bonded nitrogen. Regarding Metz et al., these dyes are based on those of Machtold et al. thus the same arguments for Machtold et al. apply to Metz et al. Accordingly, the rejections as relied upon above are maintained.

Attached hereto is a third declaration by Hans-Tobias Macholdt that rectifies the errors in the second declaration and unequivocally speaks to the aniline levels of the prior art not being within the range which Applicants currently claim. In light of the declaration proffered herewith, it is respectfully contended the 35 USC § 102/103 rejections have been traversed.

For at least the foregoing reasons, it is respectfully contended that the 35 USC § 102/103 rejections have been overcome. In consequence, Applicants courteously solicit reconsideration and withdrawal of the rejections.

In view of the forgoing remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, she is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,

  
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